

ESTTA Tracking number: **ESTTA741010**

Filing date: **04/19/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91226892
Party	Defendant Skyyfish, LLC
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Date	04/19/2016
Attachments	Answer Final.pdf(255490 bytes) Certification of Response.pdf(86851 bytes)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
IN THE MATTER OF APPLICATION SERIAL NO. 86/316,534: SKYYFISH
PUBLISHED IN THE OFFICIAL GAZETTE ON DECEMBER 22, 2015

CAMPARI AMERICA LLC,
OPPOSER,

vs.

SKYYFISH, LLC,
APPLICANT

Application Serial No. 86/316,534

ANSWER TO NOTICE OF OPPOSITION

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Skyfish LLC denies Campari America LLC (“Campari America”) claims that Skyfish LLC’s Trademark Application, Serial No. 86/316,534 (the “Application”) will damage Campari America in any way.

Applicant denies all claims except those specifically noted below. The grounds for disputing the Application are:

BACKGROUND

1. Applicant seeks to register Skyfish LLC in International Class 12 for unmanned aerial vehicles (UAVs) (the “Class 12 Goods”). Those Class 12 Goods are very different and distinct from any and all products bearing the Opposer’s mark, which largely or exclusively consist of distilled spirits. Applicant’s mark is vastly different from Opposer’s mark in spelling, pronunciation, presentation, context, color, meaning, and is distinctive.

1 2. Applicant filed the Application on April 30, 2014, based on Applicant's alleged use in
2 commerce of Skyfish LLC in connection with the Class 12 Goods since at least as early as April 30,
3 2014, with no known, alleged, or reported confusion between SKYY spirits and Skyfish LLC UAVs
4 over a nearly two year period.

5 **CAMPARI AMERICA'S USE AND REGISTRATION OF THE SKYY BRAND**

6 3. Admit.

7 4. Applicant has no knowledge or information as to the initial date of use or length of
8 time Campari America has used the mark SKYY. Applicant has no knowledge or information as to the
9 popularity and/or success of SKYY vodka brand name.
10

11 5. Deny. Applicant disputes the assertion that SKYY is a conceptually-strong mark.
12 Applicant can find no cases or rulings asserting this claim. A simple Google search returns 397,000
13 results including a band, a bar in Albuquerque, a hotel in Thailand, an adult website, and many more uses
14 of the term SKYY.

15 6. Deny. Applicant disputes the assertion that SKYY is a commercially-strong mark.
16 Applicant can find no cases or rulings asserting this claim. A simple Google search returns 397,000
17 results including a band, a bar in Albuquerque, a hotel in Thailand, an adult website, and many more uses
18 of the term SKYY.
19

20 7. Admit both parts a. and b.

21 8. Admit.

22 **COUNT I**
23 **PRIORITY AND LIKELIHOOD OF CONFUSION**

24 9. Admit.

25 10. Admit.

26 11. Deny. Skyfish LLC mark only includes the letters "Sky" and not the entire mark
27 "SKYY." Skyfish LLC mark does not closely resemble the SKYY mark in sight because the "fish"
28 portion of the Skyfish LLC mark makes the mark distinctly different; in sound because the addition of

1 “fish” produces a completely different total sound; in meaning because Skyfish LLC conveys the
2 meaning of an unmanned aerial vehicle (UAV) controlled by software and hardware; and in commercial
3 impression because Skyfish LLC carries the commercial impression of high-tech, UAV hardware and
4 software as clearly stated in all Skyfish LLC marketing materials and website. In sum, Skyfish LLC
5 does not convey the commercial impression of any drink or food product of any kind, let alone the
6 particularized impression of distilled spirits.

7
8 12. Deny. UAVs controlled by software and hardware are in no way related to distilled
9 spirits and vodka. The mark is dissimilar when considering the totality of the Skyfish LLC mark. There
10 is no likelihood a consumer seeking or familiar with SKYY as a maker of distilled spirits or vodka would,
11 through confusion, mistake, or deception, consider SKYY to be a manufacturer of UAV hardware and
12 software. Applicant has not made any reproduction, counterfeit, copy, or colorable imitation of a
13 registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or
14 services per the language and meaning of 15 U.S.C §§ 1114 or 1125(a).

15
16 13. Deny. Applicant’s mark and goods differ significantly from Opposer’s mark and
17 goods. Consumers will not confuse the source of Applicant goods and services with Opposer’s limited
18 and distinctly different product line within Class 12 goods, namely distilled spirits and vodka, and
19 therefore Skyfish LLC will not injure or damage Opposer’s goodwill and reputation, nor cause dilution
20 by blurring or tarnishment under 15 U.S.C. § 1125(c) or within the language or meaning of 15 U.S.C. §
21 1063(a).

22
23 14. Deny. Opposer and Applicant marks are dissimilar in spelling, color and style, and
24 presentation. There exists no overlap of Applicant’s applied for goods and Opposer’s goods. Applicant’s
25 goods are vastly and significantly different than Opposer’s goods making it highly unlikely, nearly
26 impossible, a consumer will incorrectly believe Applicant and Opposer goods are in any way related.
27 Given the unlikelihood of confusion, no damage of any kind will occur to Opposer.

15. Deny. Applicant should be allowed a Trademark because the applied-for Skyfish LLC mark does not resemble the SKYY mark and is virtually impossible that the Skyfish LLC mark could cause any confusion, mistake, or deception. Further, to Applicant's knowledge and belief, no other claims exist barring the granting of a Trademark to Applicant's applied for mark.

COUNT II

LIKELIHOOD OF DILUTION

16. Applicant lacks sufficient knowledge or information regarding this allegation and therefore denies the same. Applicant lacks knowledge of how long Oppositor's mark has been used, or if considered widely used and advertised, or if the mark has become well known and famous, or if the mark is a distinctive symbol of Opposer's goodwill, if in fact any goodwill exists, within the language or meaning of 15 U.S.C. § 1125(c)(1).

17. Admit. Opposer began using the mark before Applicant and before Applicant applied to register Applicant mark. Applicant lacks sufficient knowledge or information regarding whether the mark is famous, and therefore denies the same.

18. Deny. Opposer’s mark can be found in use by a large number of vastly different groups, organizations, websites, and locations per a simple Google search. In addition, inclusion of the word “SKYY” did not precluded registration as a mark by “Ladies of SKYY”.

19. Deny. Opposer’s mark is dissimilar to Applicant’s mark and is distinctly different in its entirety by the second syllable, “fish.” Opposer’s use of the mark is not distinctive; it is used by other groups, organizations, locations, and entities. Instead, Opposer’s mark is only recognized within a narrow group of Class 12 products. Applicant does not have or seek any association with Opposer’s mark—there exists no advantage to associating alcohol and UAVs. Therefore, there is no actual or potential association of any kind between Opposer’s mark and Applicant’s mark, and Applicant’s use and registration of Skyyfish LLC will not dilute quality of Opposer’s mark within the language or meaning of 15 U.S.C. § 1125(c)(2)(B).

20. Deny. Applicant's use of the mark will not lessen the capacity of Opposer's mark.

The products will not be offered through the same channels; be offered in the same merchant locations; or even be available from the same online websites. Further, it is extremely unlikely a consumer would be less likely to buy Opposer's goods due to Applicant's mark—the marks and products are so dissimilar that consumers interested in distilled spirits and vodka will remain able to quickly and clearly, without confusion, distinguish Opposer's mark and goods from Applicant's mark and goods.

21. Deny. There is no way that Applicant’s use and registration of Skyyfish LLC could even potentially tarnish the reputation of Opposer’s mark within the meaning of 15 U.S.C. § 1125(c)(2)(C). Applicant’s mark in full—“Skyyfish LLC”—the color and design scheme of the mark, and the context and presentation of the mark all disassociate Applicant’s mark from Opposer’s mark, thus eliminating any impact on Opposer’s reputation.

CONCLUSION

22. Applicant respectfully requests that this opposition be dismissed and registration of Application Serial No. 86/316,534 be granted.

Dated this 19 day of April, 2016.

Respectfully submitted,

Joel Henry

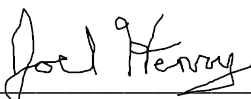
Joel Henry, Esq, PhD

CERTIFICATE OF ELECTRONIC TRANSMISSION

Date: April 19, 2016

I certify that this Answer is being transmitted electronically to the Trademark Trial and Appeal Board of the United States Patent & Trademark Office, on the date indicated above, through the ESTTA electronic filing system at the web site <http://estta.uspto.gov/>.

By:

A handwritten signature in cursive script, reading "Joel Henry", is written over a horizontal line.

Joel Henry, PhD, Esq.

CERTIFICATE OF SERVICE

I certify that on April 19, 2016, I served this Answer by first-class U.S. mail to:

Joel R. Feldman, Esq.

Campari America LLC

Greenberg Traurig, LLP

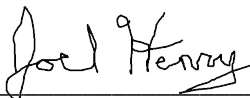
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